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SQUARE D COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
1415 SOUTH ROSELLE ROAD
PALATINE, IL 60067

Paper No. 4

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In re Application of
White .
Application No. 09/388,158
Filed: June 25, 2001
Attorney Docket No. SAA-57

OFFICE OF PETITIONS

This is a decision on the paper styled "REQUEST LETTER TO CORRECT FILING RECEIPT" filed August 10, 2001, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of June 22, 2001, rather than the presently accorded filing date of June 25, 2001.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on June 22, 2001, pursuant to the requirements of 37 CFR 1.10.

Section 1.10(a) of title 37, Code of Federal Regulations, states:

Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.

The PTO considers the date the paper or fee is shown to have been deposited as Express Mail as set forth in §1.10(a) to be the "Date-In" on the Express Mail label.

Placing the "Date-In" on the Express Mail label by the postal clerk establishes that the package was actually received by the Postal Service. That is the date that verifies that the package was actually mailed.

The two requirements under 37 CFR 1.10(c) are: First, petitioner must submit a true copy of the "Express Mail" mailing label showing the "date-in" and of any other official notation by the USPS relied upon to show the date of deposit. 37 CFR 1.10(c)(3). Second, petitioner is required to show the number of the "Express Mail" mailing label was placed on the correspondence prior to the original mailing by "Express Mail." 37 CFR 1.10(c)(2).

The petition fails the first requirement because petitioner has not submitted a copy of the Express Mail customer receipt showing a date-in. The petition contains no official notation by the USPS showing the date of deposit.

Accordingly, the petition is dismissed and the filing date remains June 25, 2001, which is the same date shown on the PTO generated bar code affixed to the postcard receipt.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: 4 Crystal Plaza
 2201 South Clark Place
 Suite 3C23 - Office of Petitions
 Arlington, VA 22202-3113

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.



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for Patent Examination Policy